



Reprinted
February 26, 2016

ENGROSSED HOUSE BILL No. 1331

DIGEST OF HB 1331 (Updated February 25, 2016 2:58 pm - DI 97)

Citations Affected: IC 30-2.

Synopsis: Management of institutional funds. Provides that a chapter in the Indiana Code may be cited as the Uniform Prudent Management of Institutional Funds Act (UPMIFA). Makes the following changes to the UPMIFA: (1) Allows a donor to give an institution prior consent for release or modification of a restriction or charitable purpose in a gift instrument. (2) Allows an institution to release or modify a restriction in a fund established more than 20 years ago without court approval, if the value of an institutional fund is less than \$250,000. (Under current law, the institutional fund must be less than \$25,000.) Specifies a procedure for notice to and response from the attorney general concerning a release or modification.

Effective: July 1, 2016.

Smith M, DeLaney

(SENATE SPONSORS — HEAD, FORD, MRVAN, RANDOLPH LONNIE M)

January 12, 2016, read first time and referred to Committee on Judiciary.
January 25, 2016, reported — Do Pass.
January 28, 2016, read second time, ordered engrossed.
January 29, 2016, engrossed.
February 2, 2016, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 8, 2016, read first time and referred to Committee on Insurance & Financial Institutions.
February 18, 2016, reported favorably — Do Pass.
February 25, 2016, read second time, amended, ordered engrossed.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1331

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 30-2-12-0.4 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2016]: **Sec. 0.4. This chapter may be cited as the Uniform**
- 4 **Prudent Management of Institutional Funds Act.**
- 5 SECTION 2. IC 30-2-12-13, AS AMENDED BY P.L.226-2007,
- 6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2016]: Sec. 13. (a) With the consent of the donor in a record,
- 8 an institution may modify or release, in whole or in part, a restriction
- 9 in a gift instrument on the management, investment, and purpose of an
- 10 institutional fund. **A donor may give prior consent to an institution**
- 11 **for release or modification of a restriction or a charitable purpose**
- 12 **in a gift instrument that also includes a restriction or stated**
- 13 **charitable purpose subject to this section.**
- 14 (b) A release under this section may not allow an institutional fund
- 15 to be used for purposes other than the charitable purposes of the
- 16 institution affected.
- 17 (c) An institution may petition a court to modify, in a manner

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consistent with the donor's intentions to the extent practicable, a restriction in a gift instrument concerning the management or investment of an institutional fund if:

- (1) the restriction is impracticable or wasteful;
- (2) the restriction impairs the management or investment of the fund; or
- (3) due to unanticipated circumstances, the modification will further the purposes of the institutional fund.

An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(d) An institution may petition a court to modify, in a manner consistent with the gift instrument, the charitable purpose of a fund or a restriction on the use of a fund if the charitable purpose or use becomes unlawful, impracticable, impossible, or wasteful. An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(e) If an institution determines that a restriction in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible, or wasteful, **the following apply:**

(1) The institution shall ~~notify~~ send written notice of the determination to the attorney general.

(2) ~~If, not more than sixty (60) days after providing notice under this subsection,~~ receiving written notice of the determination under subdivision (1), the attorney general sends a written objection to a release or modification of the restriction, the institution may not release or modify the restriction unless one (1) of the following occurs:

(A) The attorney general sends written notice to the institution that the attorney general withdraws the objection.

(B) A court, in a court petition filed under this section, approves the release or modification.

A release or modification of a restriction under clause (A) or (B) is subject to subdivision (4).

(3) If:

(A) the attorney general has not, within sixty-three (63) days after the institution sends written notice under subdivision (1), sent a written objection to a release or modification of the restriction; or

(B) the institution is permitted to release or modify the



1 restriction as provided in subdivision (2)(A) or (2)(B);
 2 the institution, subject to subdivision (4), may release or
 3 modify the restriction.

4 **(4) Not less than sixty (60) days after sending the written**
 5 **notice required by subdivision (1), the institution may release or**
 6 modify all or part of the restriction if:

7 ~~(1)~~ **(A)** the value of the institutional fund subject to the
 8 restriction is less than ~~twenty-five~~ **two hundred fifty** thousand
 9 dollars ~~(\$25,000);~~ **(\$250,000);**

10 ~~(2)~~ **(B)** the institutional fund was established more than
 11 twenty (20) years earlier; and

12 ~~(3)~~ **(C)** the institution uses the institutional fund in a manner
 13 consistent with the charitable purposes expressed in the gift
 14 instrument.

15 **However, the institution may release or modify all or part of**
 16 **the restriction as provided in this subdivision within the sixty**
 17 **(60) day period described in this section if the attorney**
 18 **general sends to the institution written notice that the**
 19 **attorney general does not object to a release or modification**
 20 **of the restriction.**

21 **(f) If:**

22 **(1) an institution makes a determination described in**
 23 **subsection (e); and**

24 **(2) the institutional fund does not meet the criteria for release**
 25 **or modification of a restriction described in subsection**
 26 **(e)(4)(A) through (e)(4)(C);**

27 **the institution may file a court petition under subsection (c) or (d),**
 28 **whichever is applicable, to seek approval of a release or**
 29 **modification. The attorney general may, after receiving notice of**
 30 **the petition, notify the court that the attorney general does not**
 31 **object to the release or modification and waives any interest or**
 32 **hearing on the petition.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1331 as introduced.)

STEUERWALD

Committee Vote: Yeas 12, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance & Financial Institutions, to which was referred House Bill No. 1331, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB1331 as printed January 26, 2016.)

HOLDMAN, Chairperson

Committee Vote: Yeas 9, Nays 0

SENATE MOTION

Madam President: I move that Engrossed House Bill 1331 be amended to read as follows:

Page 1, delete lines 5 through 17, begin a new paragraph and insert:

"SECTION 2. IC 30-2-12-13, AS AMENDED BY P.L.226-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 13. (a) With the consent of the donor in a record, an institution may modify or release, in whole or in part, a restriction in a gift instrument on the management, investment, and purpose of an institutional fund. **A donor may give prior consent to an institution for release or modification of a restriction or a charitable purpose in a gift instrument that also includes a restriction or stated charitable purpose subject to this section.**

(b) A release under this section may not allow an institutional fund to be used for purposes other than the charitable purposes of the institution affected.

(c) An institution may petition a court to modify, in a manner

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consistent with the donor's intentions to the extent practicable, a restriction in a gift instrument concerning the management or investment of an institutional fund if:

- (1) the restriction is impracticable or wasteful;
- (2) the restriction impairs the management or investment of the fund; or
- (3) due to unanticipated circumstances, the modification will further the purposes of the institutional fund.

An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(d) An institution may petition a court to modify, in a manner consistent with the gift instrument, the charitable purpose of a fund or a restriction on the use of a fund if the charitable purpose or use becomes unlawful, impracticable, impossible, or wasteful. An institution shall notify the attorney general of a petition under this subsection. A court shall provide the attorney general an opportunity to be heard on the petition.

(e) If an institution determines that a restriction in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible, or wasteful, **the following apply:**

(1) The institution shall ~~notify~~ send written notice of the determination to the attorney general.

(2) ~~If, not more than sixty (60) days after providing notice under this subsection,~~ receiving written notice of the determination under subdivision (1), the attorney general sends a written objection to a release or modification of the restriction, the institution may not release or modify the restriction unless one (1) of the following occurs:

(A) The attorney general sends written notice to the institution that the attorney general withdraws the objection.

(B) A court, in a court petition filed under this section, approves the release or modification.

A release or modification of a restriction under clause (A) or (B) is subject to subdivision (4).

(3) If:

(A) the attorney general has not, within sixty-three (63) days after the institution sends written notice under subdivision (1), sent a written objection to a release or modification of the restriction; or

(B) the institution is permitted to release or modify the



restriction as provided in subdivision (2)(A) or (2)(B); the institution, subject to subdivision (4), may release or modify the restriction.

(4) Not less than sixty (60) days after sending the written notice required by subdivision (1), the institution may release or modify all or part of the restriction if:

~~(1)~~ **(A)** the value of the institutional fund subject to the restriction is less than ~~twenty-five~~ **two hundred fifty** thousand dollars ~~(\$25,000);~~ **(\$250,000);**

~~(2)~~ **(B)** the institutional fund was established more than twenty (20) years earlier; and

~~(3)~~ **(C)** the institution uses the institutional fund in a manner consistent with the charitable purposes expressed in the gift instrument.

However, the institution may release or modify all or part of the restriction as provided in this subdivision within the sixty (60) day period described in this section if the attorney general sends to the institution written notice that the attorney general does not object to a release or modification of the restriction.

(f) If:

(1) an institution makes a determination described in subsection (e); and

(2) the institutional fund does not meet the criteria for release or modification of a restriction described in subsection (e)(4)(A) through (e)(4)(C);

the institution may file a court petition under subsection (c) or (d), whichever is applicable, to seek approval of a release or modification. The attorney general may, after receiving notice of the petition, notify the court that the attorney general does not object to the release or modification and waives any interest or hearing on the petition."

Delete page 2.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1331 as printed February 19, 2016.)

HEAD

